



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 27 2006

REPLY TO THE ATTENTION OF:  
(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

David Scriven-Young  
McDermott Will & Emery LLP  
227 West Monroe  
Chicago, Illinois 60606-5096

Dear Mr. Scriven-Young:

Enclosed are an Administrative Consent Order (AOC) and a file stamped Consent Agreement and Final Order (CAFO) which resolves Kimble Glass Company (Kimble), CAA Docket No. CAA-05-2006-0034.

As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 28 2006.

Pursuant to paragraph 26 of the CAFO, Kimble must pay the civil penalty within 30 days of SEP 28 2006. Your check must display the case docket number, CAA-05-2006-0034, and the billing document number, 2750603A011.

Please direct any questions regarding this case to Sabrina Argentieri, Associate Regional Counsel, (312) 353-5485.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable".

Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	
	)	
Kimble Glass, Inc.	)	Administrative Consent Order
Chicago Heights, Illinois	)	
	)	EPA-5-06-113(a)-7-IL
Proceeding Under Sections	)	
113(a)(1) and 114(a)(1) of	)	
the Clean Air Act, 42 U.S.C.	)	
§§ 7413(a)(1) and 7414(a)(1)	)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Kimble Glass, Inc. (Kimble) under Sections 113(a)(1) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(1) and 7414(a)(1).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

3. On December 29, 1992, U.S.EPA approved 35 Ill. Admin. Code Part 212, Subpart B (Visible Emissions) as part of the federally enforceable SIP for Illinois (57 Fed. Reg. 61837). This rule became effective July 13, 1988.

4. 35 Ill. Admin. Code § 212.123 (Subpart B) requires that no person shall cause or allow the emissions of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission source.

5. Title V of the Act, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including "major sources." Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, U.S.EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency.

57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.

6. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

7. U.S. EPA granted interim approval to Illinois' Clean Air Act Permit Program (CAAPP) with an effective date of March 7, 1995. See 40 C.F.R. Part 70, Appendix A. U.S. EPA granted final approval effective on November 30, 2001. See 40 C.F.R. Part 70, Appendix A.

8. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP and Title V of the CAA. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

9. The Administrator of U.S. EPA may require any person who owns or operates an emission source under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1) to install, use and maintain monitoring equipment and submit reports. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### Findings

10. Kimble owns and operates a container glass manufacturing facility at 1131 Arnold Street, Chicago Heights, Illinois 60411.

11. On April 16, 2001, the Illinois Environmental Protection Agency (IEPA) issued the CAAPP Permit (ID#031045AAJ) to Kimble. This permit covers several air emission sources, including the glass melting furnace B (Unit 05). The glass melting furnace B emissions are routed to a stack through an electrostatic precipitator (ESP).

12. Condition 5.2.2(b) of Kimble's Title V CAAPP Permit states that no person shall cause or allow the emissions of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere.

13. Kimble owns or operates an "emission source" within the

meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Kimble is subject to the requirements of Section 114(a)(1).

14. On May 9, 2006, U.S. EPA issued to Kimble a notice of violation (NOV)/Finding of Violation (FOV) alleging that Kimble violated its CAAPP permit, Section 502 of the Act, 40 C.F.R. § 70.7(b), and the 35 Ill Admin Code § 212.123 by failing to maintain compliance with the 30% visible emission limit in its CAAPP permit by emitting more than 30% visible emissions from the glass melting furnace B stack on January 19, 2006.

15. On June 6, 2006, representatives of Kimble and U.S. EPA met and discussed the May 9, 2006 NOV/FOV.

16. U.S. EPA alleges that Kimble violated its CAAPP permit, Section 502 of the Act, 40 C.F.R. § 70.7(b), and the 35 Ill. Admin. Code § 212.123. Although Kimble agrees to the terms of the Order, Kimble does not admit any allegation of law or fact made by U.S. EPA in the May 9, 2006 NOV/FOV or otherwise contained in this Order.

#### Compliance Program

17. In accordance with Appendix B of 40 C.F.R. Part 60, Kimble shall install and calibrate, during the upcoming 2006-2007 cold repair of the glass melting furnace B, a continuous opacity monitoring system (COMS) for measuring the opacity of the emissions discharged to the atmosphere from the glass melting furnace B.

18. As a means of initiating corrective actions, the COMS unit shall employ an alarm system that alerts plant personnel of opacity levels approaching the 30% limit.

19. Within thirty (30) days after Kimble brings furnace B on-line after the completion of the 2006-2007 cold repair and the furnace is packing commercial glass, Kimble shall conduct the performance evaluation of the COMS as specified in paragraphs 8.0 and 8.1 of Performance Specification 1 (Appendix B of 40 C.F.R. Part 60).

20. Starting on the date that Kimble successfully finishes completion of the performance evaluation of the COMS, Kimble must operate and maintain the COMS and report periods of excess

emissions for all 6 minute periods during which the average opacity exceeds that allowed by 35 Ill. Admin. Code Part 212.123 as recorded by the COMS identified in paragraph 18 above. The content of this report must comply with the requirements in 40 C.F.R. § 60.7(c). These reports shall be sent quarterly to U.S. EPA and IEPA.

21. Kimble must operate and maintain the COMS and record the output of the system under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), until the termination of this Order pursuant to paragraph 32 below.

22. Kimble must back up records of the ESP operating parameters such as the voltage, amperage, and power of the electromagnetic fields at each of the four fields. These records must be available in electronically viewable format at 1131 Arnold Street, Chicago Heights, Illinois facility for review by U.S. EPA and IEPA representatives. In addition, these records must be submitted every quarter for two years, starting 90 days after the successful completion of the COMS performance evaluation, as provided in paragraph 23.

23. Kimble must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604.

Julie Armitage, Acting Manager  
Compliance and Enforcement Section Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, Illinois 62702

#### General Provisions

24. This Order does not affect Kimble's responsibility to comply with other local, state, and federal laws and regulations.

25. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP, or any section of the Act.

26. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the

Act, 42 U.S.C. § 7413, for Kimble's violation of the Illinois SIP.

27. Failure to comply with this Order may subject Kimble to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).

28. The terms of this Order are binding on Kimble, its assignees and successors. Kimble must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Kimble has given the notice.

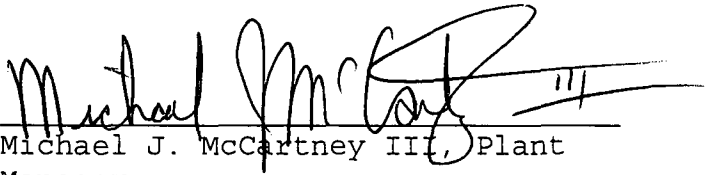
29. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

30. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

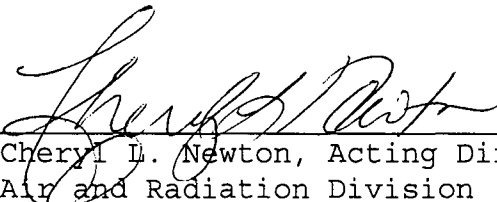
31. Kimble agrees to the terms of this Order.

32. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Kimble has complied with all terms of the Order throughout its duration.

9/25/06  
Date

  
Michael J. McCartney III, Plant  
Manager  
Kimble Glass, Inc

9/27/06  
Date

  
Cheryl L. Newton, Acting Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Betty Williams, do hereby certify that I sent a copy of the Administrative Consent Order, No. EPA-5-06-113(a)-07-IL, by Certified Mail, Return Receipt Requested to:

David Scriven-Young  
McDermott Will & Emery LLP  
227 West Monroe  
Chicago, Illinois 60606-5096

I also certify that a copy of the Administrative Consent Order, No. EPA-5-06-113(a)-07-IL was sent by First-class mail to:

Julie Armitage, Acting Manager  
Compliance and Enforcement Section Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 28<sup>th</sup> day of September 2006.

Betty Williams  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1455 0235